

**REMARKS**

At the time the current Final Official Action was mailed, the Examiner rejected claims 1-45 and objected to claim 12. By this response, claim 12 has been amended. Therefore, claims 1-45 are currently pending. No new matter has been added. Reconsideration of the application in view of these amendments and in view of the remarks set forth below is respectfully requested.

**Claim Objections**

In the Final Office Action, the Examiner objected to claim 12. Applicant has amended claim 12 as suggested by the Examiner. In view of this amendment, Applicant respectfully requests that the Examiner withdraw the objection to claim 12.

**Rejections under 35 U.S.C. § 102**

In the Final Office Action, the Examiner rejected claims 1-6, 12-14, 16-22, 23-24, 31-33, 35, 38-41, and 44-45 under U.S.C. § 102(e) as being anticipated by Ohler (U.S. Patent No. 6,961,658, hereafter ("Ohler")).

Applicant respectfully traverses this rejection. Anticipation under Section 102 can be found only if a single reference shows exactly what is claimed. *Titanium Metals Corp. v. Banner*, 778 F.2d 775, 227 U.S.P.Q. 773 (Fed. Cir. 1985). For a prior art reference to anticipate under Section 102, every element of the claimed invention must be identically shown in a single reference. *In re Bond*, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990). To maintain a proper rejection under Section 102, a single reference must teach each and every limitation of the rejected claim. *Atlas Powder v. E.I. du Pont*, 750 F.2d 1569 (Fed. Cir. 1984). The prior art

reference also must show the *identical* invention “*in as complete detail as contained in the ... claim*” to support a *prima facie* case of anticipation. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q. 2d 1913, 1920 (Fed. Cir. 1989) (emphasis added). Accordingly, Applicant may point to a single element not found in the cited reference to demonstrate that the cited reference fails to anticipate the claimed subject matter.

***Independent Claims 1, 12, 18, and 31***

On a preliminary note, Applicant would like to reiterate the previous argument that Ohler does not disclose calculating an optimal route, determining a preferred or default route, providing both routes to the user, *and* allowing the user to select among the routes. *See* Response to Office Action filed 4/27/06 pg. 17. Ohler does allow for calculation of an alternative route, and Ohler discloses presenting the alternative route to the user. *See* Ohler, col. 7, lines 18-37. However, Ohler does not disclose presenting a preferred route *and* an optimal route to the use, *and* allowing the user to select among the routes. The Examiner cited Ohler as disclosing that a user “may indicate a selection of a destination or a travel route.” *See* Ohler, col. 2, lines 49-51. Applicant respectfully disagrees with Examiner’s interpretation of Ohler in this regard. Ohler is only disclosing that a user may select *either* a destination *or* a travel route, not select *among* multiple routes presented to the user, as recited in independent claim 1, 12, 18 and 32.

Further, Applicant respectfully asserts that Ohler does not disclose additional features of independent claims 1, 12, 18 and 31. For example, independent claim 1 recites “determine if *position data and destination data correspond to an operator preferred route* stored in the

memory; provide the operator preferred route to the operator *if the position data and destination data correspond to the operator preferred route*” (Emphasis added). Independent claim 12 recites “determine whether *the location data and the destination data correspond to a defined route* stored in memory; provide the *defined route if the location data and destination data correspond to the defined route*” (Emphasis added). Independent claim 18 recites “determining *if the origination location has been utilized with the destination location* based on stored data” (Emphasis added). Finally, independent claim 31 recites “present a preferred route *if the origination data and the destination data correspond to the preferred route*” (Emphasis added). Accordingly, each of the above-recited claims includes the use of position data, location data, or origination data, *and* destination data.

In sharp contrast, Ohler discloses a system that determines if a “routine trip” has began by “comparing current vehicle location or departure time information to routine trip information in database.” See Ohler col. 4, lines 42-46. The Ohler system does not use “destination data” to determine if a trip is a routine trip, instead relying on current location and departure time data. This is different from the claim features recited above, which use position data, origination data, or location data, *and* destination data to determine if the trip is a defined or preferred route. For at least this reason, Ohler does not disclose the above-recited features of independent claims 1, 12, 18 and 31. Accordingly, Applicant respectfully asserts that Ohler does not anticipate independent claims 1, 12, 18 and 31, as well as the claims that depend therefrom.

***Dependent Claims 5, 20, and 27***

While Applicant respectfully submits that each of the claims dependent on independent claims 1, 12, 18 and 31 are allowable for the reasons set forth above, Applicant would like to specifically address an additional point regarding claims 5 (dependent on claim 1) and 20 (dependent on claim 18). Dependent claim 5 recites “wherein *the operator preferred route is defined by the number of times that a specific route is utilized*” (Emphasis added). Dependent claim 20 recites “setting the condition if *the number of times the origination location has been utilized with the destination location is greater than or equal to a specific number of times*” (Emphasis added).

In contrast, Ohler discloses a system in which “if one or more additional trips are made along the route, the record may be kept, representing a regularly traveled route.” Thus, Ohler makes a determination of a “regularly traveled route” based on *one or more* trips made along that route. The above-recited claim features allow for determination of a “preferred route” or “default route” based on *any* number of times and are not restricted to “one or more additional trips” along a route as disclosed in Ohler. As such, Ohler clearly does not disclose the claim features of dependent claims 5 and 20. Accordingly, Applicant respectfully requests the allowance of claims 5 and 20.

***Dependent Claims 35, 38, 40, and 44***

Again, while Applicant respectfully submits that each of the claims dependent on independent claims 1, 12, 18 and 31 are allowable for reasons set forth above, Applicant would

like to specifically address an additional point regarding claims 35 (dependent on claim 1), 38 (dependent on claim 12), 40 (dependent on claim 18), and 44 (dependent on claim 31).

Dependent claim 35 recites “wherein *the program is configured to allow the operator to enter the preferred route*” (Emphasis added). Dependent claim 38 recites “wherein *the program is adapted to allow the user to enter the defined route*” (Emphasis added). Dependent claim 40 recites “allowing *the user to enter the default route.*” (Emphasis added). Finally, dependent claim 44 recites “wherein *the program is adapted to allow the operator to enter the preferred route.*”

In contrast, Ohler discloses a learning mode in which the driver can “designate the trip as a routine trip.” *See* Ohler, col. 4, lines 26-30. Alternatively, the user can designate the trip as “either a primary or secondary route.” *See* Ohler, col. 4 lines 30-32. The system in Ohler then learns the subsequently traveled route per the user’s designation. *See* Ohler, col. 4, lines 23-26. Neither option in Ohler allows the user or operator to enter a route, only to “designate” a given route as a routine trip or a primary or secondary route. This differs from the above-recited claim features, in which the user or operator can enter a “preferred route,” “default route,” or “defined route” directly, without waiting for the system to learn the route. As such, Ohler clearly does not disclose the claim features of dependent claims 35, 38, 40, and 44. Accordingly, Applicant respectfully requests the allowance of claims 35, 38, 40, and 44.

In view of the amendments and remarks set forth above, Applicant respectfully submits that the presently rejected claims contain subject matter that is not anticipated by the Ohler

reference. Therefore, Applicant respectfully requests withdrawal of the rejections under 35 U.S.C. § 102 and allowance of the rejected claims.

**Claim Rejections under 35 U.S.C. § 103(a)**

The Examiner rejected claims 7-11, 25-30, 36-37 and 42-43 under 35 U.S.C. § 103(a) as being unpatentable over Ohler in view of Pu et al. (U.S. Patent No. 6,292,743, hereinafter “Pu”) and rejected claims 15 and 34 as unpatentable over Ohler in view of Stefan et al. (U.S. Patent No. 6,212,658, hereinafter “Stefan”).

Applicant respectfully traverses these rejections. The burden of establishing a *prima facie* case of obviousness falls on the Examiner. *Ex parte Wolters and Kuypers*, 214 U.S.P.Q. 735 (B.P.A.I. 1979). Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention absent some teaching or suggestion supporting the combination. *ACS Hospital Systems, Inc. v. Montefiore Hospital*, 732 F.2d 1572, 1577, 221 U.S.P.Q. 929, 933 (Fed. Cir. 1984). Accordingly, to establish a *prima facie* case, the Examiner must not only show that the combination includes *all* of the claimed elements, but also a convincing line of reason as to why one of ordinary skill in the art would have found the claimed invention to have been obvious in light of the teachings of the references. *Ex parte Clapp*, 227 U.S.P.Q. 972 (B.P.A.I. 1985). When prior art references require a selected combination to render obvious a subsequent invention, there must be some reason for the combination other than the hindsight gained from the invention itself, i.e., something in the prior art as a whole must suggest the desirability, and thus the

obviousness, of making the combination. *Uniroyal Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 5 U.S.P.Q.2d 1434 (Fed. Cir. 1988).

***Independent Claims 7 and 25***

Again, Applicant would like to reiterate the previous argument that Ohler does not disclose calculating an optimal route, determining a preferred or defined route, providing both routes to the user, *and* allowing the user to select among the routes. *See* Response to Office Action filed 4/27/06 pg. 17. As discussed above, Applicant respectfully disagrees with Examiner's interpretation of Ohler in this regard. Ohler only discloses that a user may select *either* a destination *or* a travel route, not select *among* multiple routes presented to the user, as recited the independent claims.

Further, Applicant respectfully asserts that Ohler does not disclose additional features of independent claim 25. As stated above, the Examiner rejected claim 25 as obvious over the Ohler reference in view of the Pu reference. As discussed above with reference to 35 U.S.C. § 102 and independent claims 1, 12, 18, and 31, the Ohler reference does not disclose the claim feature "determining if *the origination data and the destination data correspond to a defined route* in the client profile that is based on a user's experience and knowledge" as recited in claim 25 (Emphasis added). Applicant respectfully submits that independent claim 25 is allowable, because Pu does not cure the deficiencies of Ohler with regard to claim 25. For at least these reasons claims 7 and 25 are believed to be allowable over the cited references taken alone or in

conjunction with each other. Thus, Applicant respectfully requests withdrawal of the rejection of claims 7 and 25, as well as the claims that depend therefrom.

***Dependent Claims 36 and 42***

While Applicant respectfully submits that each of the claims dependent on independent claims 7 and 25 are allowable for reasons set forth above, Applicant would like to specifically address an additional point regarding claims 36 (dependent on claim 7) and 42 (dependent on claim 25). As stated above, the Examiner rejected claims 36 and 42 as obvious over the Ohler reference in view of the Pu reference. As discussed above with reference to 35 U.S.C. § 102 and dependent claims 35, 38, 40, and 44, the Ohler reference does not disclose the claim feature “wherein the program is adapted to *allow the operator to enter the preferred route*” as recited in claim 36, or “*allowing the user to enter the defined route*” as recited in claim 42 (Emphasis added). Ohler only discloses learning a route if the user “designates” the trip as a routine trip or a primary or secondary route and does not allow the user to enter the route directly. Applicant respectfully submits that dependent claims 36 and 42 are allowable, because Pu does not cure the deficiencies of Ohler with regard to claims 36 and 42. For at least this reason, claims 36 and 42 are believed to be allowable over the cited references taken alone or in conjunction with each other. Thus, Applicant respectfully requests withdrawal of the rejection of claims 36 and 42.

***Dependent Claims 15 and 34***

As stated above, the Examiner rejected claims 15 and 34 as obvious over Ohler in view of Stefan. As discussed above with reference to 35 U.S.C. § 102, the Ohler reference does not



disclose “determine whether *the location data and the destination data correspond to a defined route stored in memory*; provide the defined route if *the location data and destination data correspond to the defined route*” as recited in independent claim 12 or “present a preferred route if *the origination data and the destination data correspond to the preferred route*” as recited in independent claim 31. Applicant respectfully submits that claim 15 is allowable based on its dependency on claim 12 and claim 34 is allowable based on its dependency on claim 31, because Stefan does not cure the deficiencies of Ohler with regard to claims 12 and 31. For at least these reasons, claims 15 and 34 are believed to be allowable over the cited references taken alone or in conjunction with each other, and Applicant respectfully requests withdrawal of the rejection of claims 15 and 34.

In view of these deficiencies, Applicant respectfully submits that the cited references, taken alone or in combination, do not render obvious the subject matter set forth in the present claims. Therefore, Applicant respectfully requests withdrawal of the rejections under 35 U.S.C. § 103 and allowance of all rejected claims.

**Conclusion**

In view of the remarks set forth above, Applicant respectfully requests reconsideration of the Examiner's rejections and allowance of all pending claims. If the Examiner believes that a telephonic interview will help speed this application toward issuance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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